

109TH CONGRESS
2D SESSION

S. 3682

To establish the America's Opportunity Scholarships for Kids Program.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2006

Mr. ALEXANDER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. SANTORUM)
introduced the following bill; which was read twice and referred to the
Committee on Health, Education, Labor, and Pensions

A BILL

To establish the America's Opportunity Scholarships for Kids
Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America's Opportunity
5 Scholarships for Kids Act”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to support local efforts
8 to enable students from low-income families who attend
9 a school identified for restructuring under section

1 1116(b)(8) of the Elementary and Secondary Education
 2 Act of 1965 (20 U.S.C. 6316(b)(8))—

3 (1) to attend a private elementary school or sec-
 4 ondary school, or a public elementary school or sec-
 5 ondary school outside the student’s home school dis-
 6 trict, including a public charter school; or

7 (2) to receive intensive, sustained supplemental
 8 educational services.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ELEMENTARY SCHOOL; LOCAL EDU-
 12 CATIONAL AGENCY; SECONDARY SCHOOL; SEC-
 13 RETARY; STATE EDUCATIONAL AGENCY.—The terms
 14 “elementary school”, “local educational agency”,
 15 “secondary school”, “Secretary”, and “State edu-
 16 cational agency” have the meanings given the terms
 17 in section 9101 of the Elementary and Secondary
 18 Education Act of 1965 (20 U.S.C. 7801).

19 (2) ELIGIBLE ENTITY.—The term “eligible enti-
 20 ty” means—

21 (A) a local educational agency;

22 (B) a State educational agency; or

23 (C) a nonprofit organization or a consor-
 24 tium of nonprofit organizations.

1 (3) ELIGIBLE STUDENT.—The term “eligible
2 student” means a student from a low-income family
3 who—

4 (A) with respect to a school identified for
5 restructuring under section 1116(b)(8) of the
6 Elementary and Secondary Education Act of
7 1965 (20 U.S.C. 6316(b)(8))—

8 (i) is eligible to enroll in the beginning
9 grade of the school;

10 (ii) except as provided in subpara-
11 graph (C), attended the school for the en-
12 tire school year preceding the identifica-
13 tion;

14 (iii) in the case of a student who
15 transfers to the school to attend any grade
16 beyond the beginning grade of the school,
17 attends the school for the remainder of the
18 school year in which the transfer occurs; or

19 (iv) received a scholarship under this
20 Act in a preceding school year due to such
21 identification; or

22 (B) is a sibling of a student described in
23 any 1 of clauses (i) through (iv) of subpara-
24 graph (A).

1 (4) LOW-INCOME FAMILY.—The term “low-in-
 2 come family” means a family whose income does not
 3 exceed 185 percent of the poverty line, except that
 4 in the case of a student participating in a project
 5 under this Act for a second or any succeeding school
 6 year the term includes a family whose income does
 7 not exceed 220 percent of the poverty line.

8 (5) POVERTY LINE.—The term “poverty line”
 9 means the income official poverty line (as defined by
 10 the Office of Management and Budget, and revised
 11 annually in accordance with section 673(2) of the
 12 Community Services Block Grant Act (42 U.S.C.
 13 9902(2)) applicable to a family of the size involved.

14 (6) PRIVATE PROVIDER.—The term “private
 15 provider” means a nonprofit or for-profit private
 16 provider of supplemental educational services de-
 17 scribed in section 1116(e)(1) of the Elementary and
 18 Secondary Education Act of 1965 (20 U.S.C.
 19 6316(e)(1)) that is on the updated list of approved
 20 providers maintained by the State educational agen-
 21 cy under section 1116(e)(4)(C) of such Act (20
 22 U.S.C. 6316(e)(4)(C)).

23 (7) SUPPLEMENTAL EDUCATIONAL SERVICES.—
 24 The term “supplemental educational services” has
 25 the meaning given the term in section

1 1116(e)(12)(C) of the Elementary and Secondary
 2 Education Act of 1965 (20 U.S.C. 6316(e)(12)(C)).

3 **SEC. 4. PROGRAM AUTHORIZED.**

4 (a) AUTHORITY.—

5 (1) IN GENERAL.—Subject to paragraph (2)
 6 and from amounts appropriated under section 6 for
 7 a fiscal year, the Secretary shall award grants, on a
 8 competitive basis, to eligible entities to support
 9 projects that provide—

10 (A) scholarships to enable eligible students
 11 to attend—

12 (i) the private elementary school or
 13 secondary school of their parent’s choice;
 14 or

15 (ii) a public elementary school or sec-
 16 ondary school of their parents’ choice out-
 17 side of the eligible student’s home school
 18 district, consistent with State law; or

19 (B) eligible students with intensive, sus-
 20 tained supplemental educational services on an
 21 annual basis.

22 (2) SCHOLARSHIP DURATION RULE.—Each eli-
 23 gible entity that receives a grant under this Act shall
 24 only award a scholarship under this Act to an eligi-
 25 ble student for—

1 (A)(i) in the case of an eligible student de-
 2 scribed in section 3(3)(A), the first school year
 3 for which the eligible student is eligible to re-
 4 ceive the scholarship with respect to a school
 5 identified for restructuring under section
 6 1116(b)(8) of the Elementary and Secondary
 7 Education Act of 1965; and

8 (ii) in the case of an eligible student de-
 9 scribed in section 3(3)(B), the first school year
 10 taught at the school so identified; and

11 (B) each subsequent school year through
 12 the school year applicable to the final grade
 13 taught at the school so identified.

14 (b) DURATION OF GRANTS.—The Secretary may
 15 award grants under this Act for a period of not more than
 16 5 years.

17 (c) PRIORITIES.—In awarding grants under this Act,
 18 the Secretary shall give priority to eligible entities that—

19 (1) propose to serve eligible students in a local
 20 educational agency with a large number or percent-
 21 age of schools identified for restructuring under sec-
 22 tion 1116(b)(8) of the Elementary and Secondary
 23 Education Act of 1965 (20 U.S.C. 6316(b)(8));

24 (2) possess the knowledge and capacity to in-
 25 form parents of eligible students, in urban, subur-

1 ban, and rural areas, about public and private ele-
 2 mentary school and secondary school options; and

3 (3) will augment the scholarships provided to
 4 eligible students under this Act in order to help en-
 5 sure that parents can afford the cost (including tui-
 6 tion, fees, and necessary transportation expenses) of
 7 the schools the parents choose to have their children
 8 attend under this Act.

9 (d) APPLICATION REQUIREMENTS.—

10 (1) IN GENERAL.—To be considered for a grant
 11 under this Act, an eligible entity shall submit an ap-
 12 plication to the Secretary at such time, in such man-
 13 ner, and containing such information as the Sec-
 14 retary may reasonably require.

15 (2) CONTENTS.—The application shall, at a
 16 minimum, include a description of—

17 (A) the eligible entity’s plan for—

18 (i) recruiting private schools, local
 19 educational agencies, charter schools, and
 20 private providers, to participate in the
 21 project in order to meet eligible student de-
 22 mand for private and public school admis-
 23 sion and supplemental educational services;
 24 and

1 (ii) ensuring that participating schools
2 that enroll eligible students receiving schol-
3 arships under this Act, and private pro-
4 viders participating in the project, will
5 meet the applicable requirements of the
6 project;

7 (B) each school identified for restructuring
8 that will be served under the project, includ-
9 ing—

10 (i) the name of each such school; and

11 (ii) such demographic and socio-
12 economic information as the Secretary may
13 require;

14 (C) how the eligible entity will work with
15 the identified schools and the local educational
16 agency to identify the parents of eligible stu-
17 dents (including through contracts or coopera-
18 tive agreements with the public school or local
19 educational agency) consistent with the require-
20 ments of the Family Educational Rights and
21 Privacy Act of 1974 (20 U.S.C. 1232g);

22 (D) how the eligible entity will structure
23 the project in a manner that permits eligible
24 students to participate in the second and suc-
25 ceeding school years of the project if the schools

1 the eligible students attend with scholarship as-
2 sistance under this Act are subsequently identi-
3 fied for restructuring under section 1116(b)(8)
4 of the Elementary and Secondary Education
5 Act of 1965 (20 U.S.C. 6316(b)(8));

6 (E) how the eligible entity will use funds
7 received under this Act;

8 (F) how the eligible entity will ensure that
9 if more eligible students seek admission to the
10 project than the project can accommodate, the
11 eligible students will be selected through a ran-
12 dom selection process;

13 (G) how the eligible entity will notify par-
14 ents of eligible students of the expanded choice
15 opportunities provided under the project and
16 how the eligible entity will provide parents with
17 sufficient information to enable the parents to
18 make an informed decision;

19 (H) how the eligible entity will ensure that
20 the schools receiving eligible students under the
21 grant are financially responsible and will use
22 the grant funds received under this Act effec-
23 tively;

24 (I) how the eligible entity will prioritize be-
25 tween providing scholarships and providing sus-

1 tained, intensive supplemental educational serv-
 2 ices, including the timing and duration of offer-
 3 ing the opportunity for parents to determine
 4 which provision the parents prefer; and

5 (J) how the eligible entity will address the
 6 renewal of support for participating eligible stu-
 7 dents, including continued eligibility.

8 (e) USES OF FUNDS.—

9 (1) IN GENERAL.—Each eligible entity that re-
 10 ceives a grant under this Act may—

11 (A) reserve not more than 5 percent of the
 12 grant funds for administrative expenses, includ-
 13 ing costs associated with recruiting and select-
 14 ing eligible students, private schools, and pri-
 15 vate providers, to participate in the project;

16 (B) only for the first year for which grant
 17 funds are received under this Act, reserve not
 18 more than 5 percent of the grant funds (in ad-
 19 dition to the funds reserved under subpara-
 20 graph (A)), for initial implementation expenses,
 21 including costs associated with outreach, pro-
 22 viding information to parents and school offi-
 23 cials, and other administrative expenses;

24 (C) use the grant funds to provide scholar-
 25 ships to eligible students to pay for the cost, in-

cluding tuition, fees, and necessary transportation expenses, to attend the private school of their parents' choice or a public elementary school or secondary school of their parents' choice outside of the eligible students' home school district (consistent with State law), except that the scholarship shall not exceed \$4,000 per student per school year; and

(D) use the grant funds to pay the costs, including reasonable transportation costs, of supplemental educational services (including summer school or after-school programs) provided by a private provider to eligible students, except that the costs shall not exceed \$3,000 per student, per school year.

(2) FUNDING ORDER.—Each eligible entity that receives a grant under this Act shall—

(A) first fund scholarships for eligible students to attend the private school of their parents' choice or a public elementary school or secondary school of their parents' choice outside of the eligible students' home school district (consistent with State law); and

1 (B) use any remaining grant funds to pro-
2 vide eligible students with access to supple-
3 mental educational services.

4 (3) PAYMENT.—Each eligible entity that re-
5 ceives a grant under this Act shall make scholarship
6 payments under this Act to the parent of the eligible
7 student participating in the project, in a manner
8 that ensures that the payments will be used only for
9 the payment of tuition, fees, and necessary transpor-
10 tation expenses, in accordance with this Act.

11 (f) PROHIBITION.—A student who receives supple-
12 mental educational services under this Act shall not be eli-
13 gible to receive other such services under section 1116(e)
14 of the Elementary and Secondary Education Act of 1965
15 (20 U.S.C. 6316(e)).

16 (g) PROJECT PERFORMANCE.—Each eligible entity
17 receiving a grant under this Act shall prepare and submit
18 to the Secretary a final report on the results of the project
19 assisted under this Act that contains such information as
20 the Secretary may require. At a minimum, the report shall
21 include information on the academic achievement of stu-
22 dents receiving scholarships and supplemental educational
23 services under the project.

24 (h) PERFORMANCE INFORMATION.—Each eligible en-
25 tity that receives a grant under this Act shall collect and

1 report such performance information as the Secretary may
 2 require for the national evaluation conducted under sub-
 3 section (i).

4 (i) NATIONAL EVALUATION.—From the amount
 5 made available for any fiscal year under section 6, the Sec-
 6 retary shall reserve such sums as may be necessary to con-
 7 duct an independent evaluation, by grant or by contract,
 8 of the program carried out under this Act, which shall in-
 9 clude an assessment of the impact of the program on stu-
 10 dent achievement. The Secretary shall report the results
 11 of the evaluation to the appropriate committees of Con-
 12 gress.

13 **SEC. 5. NONDISCRIMINATION.**

14 (a) IN GENERAL.—An eligible entity or a school par-
 15 ticipating in a project under this Act shall not discriminate
 16 against an individual participant in, or an individual appli-
 17 cant to participate in, the project on the basis of race,
 18 color, religion, sex, or national origin.

19 (b) APPLICABILITY AND SINGLE-SEX SCHOOLS,
 20 CLASSES, OR ACTIVITIES.—

21 (1) IN GENERAL.—Notwithstanding any other
 22 provision of law, the prohibition of sex discrimina-
 23 tion described in subsection (a) shall not apply to a
 24 school described in subsection (a) that is operated
 25 by, supervised by, controlled by, or connected to, a

1 religious organization, to the extent that the applica-
2 tion of subsection (a) is inconsistent with the reli-
3 gious tenets or beliefs of the organization.

4 (2) PARENTAL CHOICE.—Notwithstanding sub-
5 section (a) or any other provision of law, a parent
6 may choose to enroll a child in, and a school may
7 offer, a single-sex school, class, or activity under a
8 project funded under this Act.

9 (3) NEUTRALITY.—Section 909 of the Edu-
10 cation Amendments of 1972 (20 U.S.C. 1688) shall
11 apply to this Act.

12 (c) CHILDREN WITH DISABILITIES.—Nothing in this
13 Act may be construed to alter or modify the requirements
14 of the Individuals with Disabilities Education Act (20
15 U.S.C. 1400 et seq.).

16 (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law, a school described in subsection (a)
19 that is operated by, supervised by, controlled by, or
20 connected to, a religious organization may exercise,
21 in matters of employment, the school's rights con-
22 sistent with title VII of the Civil Rights Act of 1964
23 (42 U.S.C. 2000e et seq.), including the exemptions
24 in that title.

1 (2) SPECIAL RULE.—Notwithstanding any other
2 provision of law, if a school described in subsection
3 (a) receives funds made available under this Act for
4 an eligible student as a result of a choice made by
5 the student’s parent, the receipt of the funds shall
6 not, consistent with the first amendment of the Con-
7 stitution—

8 (A) necessitate any change in the school’s
9 teaching mission;

10 (B) require the school to remove any reli-
11 gious art, icon, scripture, or other symbol; or

12 (C) preclude the school from retaining a
13 religious term in its name, selecting its board
14 members on a religious basis, or including a re-
15 ligious reference in its mission statement or an-
16 other chartering or governing document.

17 (e) RULES OF CONSTRUCTION.—For purposes of
18 Federal law, a scholarship provided under this Act to a
19 student shall be considered to be assistance to the parent
20 of the student and shall not be considered to be assistance
21 to the school that enrolls the student. The amount of any
22 scholarship (or other form of support for the provision of
23 supplemental educational services) provided to a parent of
24 an eligible student under this Act shall not be treated as
25 income of a parent of the eligible student for purposes of

1 Federal tax laws or for purposes of determining eligibility
2 for any other Federal program, other than the program
3 carried out under this Act.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated to carry out
6 this Act \$100,000,000 for fiscal year 2007 and such sums
7 as may be necessary for each of the 4 succeeding fiscal
8 years.

○